
PRELIMINARY DRAFT
No. 3396

PREPARED BY
LEGISLATIVE SERVICES AGENCY
2004 GENERAL ASSEMBLY

DIGEST

Citations Affected: IC 4-21.5-2-6; IC 12-7-2-143.5; IC 12-17.2-2;
IC 12-17.2-7.

Synopsis: Preschool registration. Amends the definition of "preschool".
Revises the licensure exemption for preschools. Requires a preschool
to register with the division of family and children.

Effective: July 1, 2004.



A BILL FOR AN ACT to amend the Indiana Code concerning human services.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 4-21.5-2-6, AS AMENDED BY P.L.241-2003, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 6. (a) This article does not apply to the formulation, issuance, or administrative review (but does, except as provided in subsection (b), apply to the judicial review and civil enforcement) of any of the following:

(1) Except as provided in IC 12-17.2-4-18.7 ~~and~~ IC 12-17.2-5-18.7, **and IC 12-17.2-7-3**, determinations by the division of family and children.

(2) Determinations by the alcohol and tobacco commission.

(3) Determinations by the office of Medicaid policy and planning concerning recipients and applicants of Medicaid. However, this article does apply to determinations by the office of Medicaid policy and planning concerning providers.

(4) A final determination of the Indiana board of tax review.

(b) IC 4-21.5-5-12 and IC 4-21.5-5-14 do not apply to judicial review of a final determination of the Indiana board of tax review.

SECTION 2. IC 12-7-2-143.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 143.5. "Preschool", for purposes of IC 12-17.2, means a program that provides an educational experience through an age appropriate written curriculum for children at least thirty (30) months of age who are not eligible to enter kindergarten and that:

(1) conducts sessions for not more than four (4) hours a day;

(2) enrolls ~~children for only~~ **an individual child for not more than** one (1) session a day; **and**

(3) does not serve meals on the premises.

~~(4) maintains a child to staff ratio of not more than fifteen (15) children to one (1) staff member;~~

~~(5) supervises children at all times with a person who is at least eighteen (18) years of age; and~~



(6) does not operate for more than ten (10) consecutive days.

SECTION 3. IC 12-17.2-2-1, AS AMENDED BY P.L.241-2003,
SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
JULY 1, 2004]: Sec. 1. The division shall perform the following duties:

(1) Administer the licensing and monitoring of child care centers
or child care homes in accordance with this article.

(2) Ensure that a national criminal history background check of
the applicant is completed through the state police department
under ~~IC 5-2-5-15~~ **IC 10-13-3** before issuing a license.

(3) Ensure that a criminal history background check of a child
care ministry applicant for registration is completed before
registering the child care ministry.

(4) Provide for the issuance, denial, suspension, and revocation of
licenses.

(5) Cooperate with governing bodies of child care centers and
child care homes and their staffs to improve standards of child
care.

(6) Prepare at least biannually a directory of licensees with a
description of the program capacity and type of children served
that will be distributed to the legislature, licensees, and other
interested parties as a public document.

(7) Deposit all license application fees **and registration fees**
collected under section 2 of this chapter in the child care fund.

(8) Require each child care center or child care home to record
proof of a child's date of birth before accepting the child. A child's
date of birth may be proven by the child's original birth certificate
or other reliable proof of the child's date of birth, including a duly
attested transcript of a birth certificate.

(9) Provide, not later than January 1, 2004, an Internet site
through which members of the public may obtain the following
information:

(A) Information concerning violations of this article by a
licensed child care provider, including:

(i) the identity of the child care provider;

(ii) the date of the violation; and

(iii) action taken by the division in response to the violation.

(B) Current status of a child care provider's license.

(C) Other relevant information.

SECTION 4. IC 12-17.2-2-2, AS AMENDED BY P.L.215-2001,
SECTION 51, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
JULY 1, 2004]: Sec. 2. The division may do the following:

(1) Prescribe forms for reports, statements, notices, and other
documents required by this article or by the rules adopted under
this article.

(2) Increase public awareness of this article and the rules adopted
under this article by preparing and publishing manuals and guides



explaining this article and the rules adopted under this article.

(3) Facilitate compliance with and enforcement of this article through the publication of materials under subdivision (2).

(4) Prepare reports and studies to advance the purpose of this article.

(5) Seek the advice and recommendations of state agencies whose information and knowledge would be of assistance in writing, revising, or monitoring rules developed under this article. These agencies, including the office of the attorney general, state department of health, division of mental health and addiction, bureau of criminal identification and investigation, and fire prevention and building safety commission, shall upon request supply necessary information to the division.

(6) Make the directory of licensees available to the public for a charge not to exceed the cost of reproducing the directory.

(7) Charge a reasonable processing fee for each license application and renewal as follows:

(A) For a child care center license, a fee of two dollars (\$2) per licensed child capacity.

(B) For a child care center new inquiry application packet, a fee not to exceed five dollars (\$5).

(C) For a child care home license new inquiry application packet, a fee not to exceed five dollars (\$5).

(D) For a child care home annual inspection, a fee not to exceed twenty-five dollars (\$25).

(8) Charge a processing fee not to exceed five dollars (\$5) for registration of a preschool under IC 12-17.2-7.

(9) Exercise any other regulatory and administrative powers necessary to carry out the functions of the division.

SECTION 5. IC 12-17.2-2-8, AS AMENDED BY P.L.50-2001, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 8. The division shall exempt from licensure the following programs:

(1) A program for children enrolled in grades kindergarten through 12 that is operated by the department of education or a public or private school.

(2) A program for children who become at least three (3) years of age as of December 1 of a particular school year (as defined in IC 20-10.1-2-1) that is operated by the department of education or a public or private school.

(3) A nonresidential program for a child that provides child care for less than four (4) hours a day. **The division may not, however, exempt from licensure a nonresidential program that provides child care for a child less than four (4) hours per day at a single location and then moves the child on the same day to a different location for care by the same or another**



nonresidential program.

(4) A recreation program for children that operates for not more than ninety (90) days in a calendar year.

(5) A program whose primary purpose is to provide social, recreational, or religious activities for school age children, such as scouting, boys club, girls club, sports, or the arts.

(6) A program operated to serve migrant children that:

(A) provides services for children from migrant worker families; and

(B) is operated during a single period of less than one hundred twenty (120) consecutive days during a calendar year.

(7) A:

(A) child care ministry registered under IC 12-17.2-6; **and**

(B) preschool registered under IC 12-17.2-7.

(8) A child care home if the provider:

(A) does not receive regular compensation;

(B) cares only for children who are related to the provider;

(C) cares for less than six (6) children, not including children for whom the provider is a parent, stepparent, guardian, custodian, or other relative; or

(D) operates to serve migrant children.

(9) A child care program operated by a public or private secondary school that:

(A) provides day care on the school premises for children of a student or an employee of the school;

(B) complies with health, safety, and sanitation standards as determined by the division under section 4 of this chapter for child care centers or in accordance with a variance or waiver of a rule governing child care centers approved by the division under section 10 of this chapter; and

(C) substantially complies with the fire and life safety rules as determined by the state fire marshal under rules adopted by the division under section 4 of this chapter for child care centers or in accordance with a variance or waiver of a rule governing child care centers approved by the division under section 10 of this chapter.

(10) A school age child care program (commonly referred to as a latch key program) established under IC 20-5-2-1.5 that is operated by:

(A) the department of education;

(B) a public or private school; or

(C) a public or private organization under a written contract with:

(i) the department of education; or

(ii) a public or private school.

SECTION 6. IC 12-17.2-7 IS ADDED TO THE INDIANA CODE



1 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
2 JULY 1, 2004]:

3 **Chapter 7. Preschools**

4 **Sec. 1. This chapter does not apply to a preschool that is:**

5 **(1) licensed under this article; or**

6 **(2) regulated by a state agency other than the division of**
7 **family and children.**

8 **Sec. 2. (a) A preschool shall, on a form approved by the division,**
9 **register with the division not more than thirty (30) days after the**
10 **preschool opens for business.**

11 **Sec. 3. If the division, after a hearing conducted under**
12 **IC 4-21.5-3, determines that a preschool has knowingly failed to**
13 **register as required under this chapter, the division shall assess**
14 **against the preschool a civil penalty of one hundred dollars (\$100).**

15 **Sec. 4. Penalties assessed under section 3 of this chapter shall be**
16 **deposited in the child care fund established under IC 12-17.2-2-3.**

17 **Sec. 5. The division shall adopt rules under IC 4-22-2 to**
18 **implement this chapter.**

19 **SECTION 7. [EFFECTIVE JULY 1, 2004] Notwithstanding**
20 **IC 12-17.2-7-2, as added by this act, a preschool in existence on**
21 **June 30, 2004, shall register with the division not later than**
22 **January 1, 2005.**

